

# Determination 2024/057<sup>1</sup>

**The compliance of one unisex toilet in a new industrial workshop building with clause G1.3.1 of the Building Code**

**7 Thistle Avenue, Masterton**

## **Summary**

This determination considers the number of sanitary fixtures required for a new industrial workshop building to comply with Building Code Clause G1 Personal Hygiene. This determination discusses the building occupancy methods set out in Acceptable Solution G1/AS1 to determine the required number of sanitary fixtures.

---

<sup>1</sup> This determination is subject to a clarification under section 189 of the Building Act 2004. The determination was originally issued on 16 October 2024.

The legislation discussed in this determination is contained in Appendix A. In this determination, unless otherwise stated, references to “sections” are to sections of the Building Act 2004 (“the Act”) and references to “clauses” are to clauses in Schedule 1 (“the Building Code”) of the Building Regulations 1992.

The Act and the Building Code are available at [www.legislation.govt.nz](http://www.legislation.govt.nz). Information about the legislation, as well as past determinations, compliance documents (eg, Acceptable Solutions) and guidance issued by the Ministry, is available at [www.building.govt.nz](http://www.building.govt.nz).

## 1. The matter to be determined

- 1.1. This is a determination made under due authorisation by me, Peta Hird, for and on behalf of the Chief Executive of Ministry of Business, Innovation and Employment (“the Ministry”).<sup>2</sup>
- 1.2. The parties to the determination are:
  - 1.2.1. Spud Motors Limited, the owner of the property (“the owner”) who applied for this determination.
  - 1.2.2. Masterton District Council (“the authority”), carrying out its duties as a territorial authority or building consent authority.
- 1.3. This determination arises from the authority refusing to grant a building consent for a proposed industrial building, to be used as an automotive workshop, with one unisex accessible toilet and shower compartment. The parties dispute the method used to calculate the number of occupants and whether one unisex toilet as proposed complies with clause G1 *Personal Hygiene* of the Building Code.
- 1.4. The matter to be determined, under section 177(1)(a), is whether the provision of one unisex accessible toilet and shower, in a new industrial building used as an automotive workshop, complies with the requirements of clause G1.3.1 of the Building Code. In deciding this matter, I must consider the Acceptable Solution G1/AS1, and its methods relating to building occupancy and the required number of toilet facilities.
- 1.5. I have not considered any other aspects of the Act or of the Building Code, nor have I considered the Building Code compliance of any of the other proposed building work. No dispute has been raised in respect of the requirements for access and facilities for persons with disabilities required by section 118 of the Act, and I have not considered this further.
- 1.6. After the authority’s refusal, the building consent was amended to include an additional (second) unisex toilet in the building and the authority subsequently granted and issued the building consent. The issued building consent is outside the

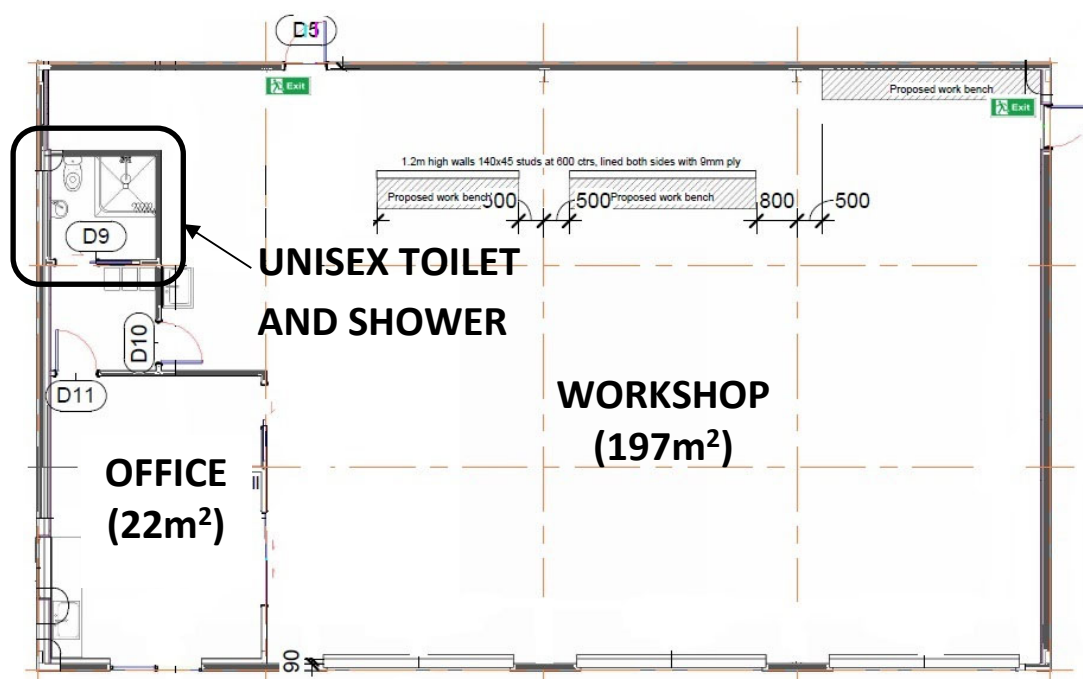
---

<sup>2</sup> The Building Act 2004, section 185(1)(a) provides the Chief Executive of the Ministry with the power to make determinations.

scope of this determination, I am limited to the compliance of the proposed design in the original building consent application with clause G1.3.1 of the Building Code.

## 2. The building work and background

- 2.1. The building work is a proposed industrial<sup>3</sup> building to be used as an automotive workshop. The building is single storey, measuring 12m by 20m, with a wall stud height of 4m.
- 2.2. The sanitary facilities originally proposed in the building consent application were one unisex accessible toilet and shower compartment, see Figure 1.



**Figure 1. Ground floor plan with one toilet and shower compartment (not to scale)**

- 2.3. In June and July 2024, during the processing of the building consent, a dispute arose about the compliance of the building with Clause G1 *Personal Hygiene*, specifically the number of building occupants and number of sanitary fixtures required.
- 2.4. The owner considers the Acceptable Solution G1/AS1 provides a way to determine the number of toilets required when the building occupancy is known. In respect of the building occupancy, the owner confirms the maximum number of occupants in the building will be four. The owner is a sole owner-operator of the workshop, occasionally accompanied by one administration staff, and potentially two clients at any one time.

<sup>3</sup> Building Code Clause A1 sets out the Classified Uses for buildings in their intended use.

- 2.5. The authority has calculated the number of occupants for the building and, based on that occupancy, considers the building requires a second unisex toilet to comply with clause G1.
- 2.6. The owner's view (in summary):
- 2.6.1. Using G1/AS1 Table 1 and based on the occupancy of four, only one toilet is required.
  - 2.6.2. The authority and has not addressed why G1/AS1 Table 1 cannot be used.
  - 2.6.3. The Fire engineer addressed the lower occupancy, and the fire report included a signed letter from the owner stating a maximum occupancy of four.
  - 2.6.4. G1/AS1 Table 4 (for occupant densities) includes notes number 3 and 4 that are relevant.
  - 2.6.5. The authority has ignored paragraph 1.4.7 of C/AS2<sup>4</sup> that allows an increase or decrease the occupant load if this can be substantiated. This states "If, in a particular situation, the occupant load derived from Table 1.2 is clearly more than that which will occur, the basis of any proposal for a lesser occupant load shall be substantiated to the building consent authority".
  - 2.6.6. Designing a building for future use "is an absurd cost to put on a current owner".
- 2.7. The authority's view (in summary):
- 2.7.1. The building consent application identified G1[AS/1] as the means of compliance, and no nominated alternative solution. The correct number of toilet facilities is determined by G1 of the Building Code. A building owner does not get to determine the number of people in a building.
  - 2.7.2. Table 4 (of G1/AS1) is how to work out the occupancy load, noting this table is adapted from C/AS1.
  - 2.7.3. One unisex toilet and one accessible toilet facility is required for an occupancy load of nine. (The authority used the occupancy density of 0.03 users/m<sup>2</sup> from Table 4 as part of their calculation.)
  - 2.7.4. The occupant load using C/AS2 Table 1.2 should have been calculated as 197sqm/5sqm per person for a workshop, being 40 people. The authority, by discretion, allowed an occupancy load calculation based on 30sqm per person resulting in a decrease in the design occupancy from 40 to 7 people.

---

<sup>4</sup> An Acceptable Solution for Building Code Clauses C1-C6 Protection from Fire (not Clause G1 Personal Hygiene) which includes ways to calculate the occupancy load of a building to determine fire protection requirements set out in that Acceptable Solution.

A lesser occupant load has been adopted and “considering the actual occupant load potential of the workshop, and possible future use of the space, the [authority] is unable to understand why a lower occupant load, than already approved, should be accepted”.

- 2.7.5. An additional matter is “to consider the future use of the building”. The “Building Act and Code is to ensure that buildings of different sizes and complexities are provided with sufficient facilities to service the potential different uses and associated numbers of people in buildings”.
- 2.8. The parties could not resolve the matter, and the owner applied for this determination.

### 3. Discussion

- 3.1. The matter to be determined is whether the provision of one accessible unisex toilet and shower, as proposed in the original building consent for the industrial building used as an automotive workshop, complies with the requirements of clause G1.3.1 of the Building Code.

#### Relevant legislation

- 3.2. Section 17 of the Act requires that all building work *must* comply with the Building Code. The Building Code is made up of a number of general and technical clauses covering areas such as Structure, Protection from Fire and Services and Facilities. Each clause sets out the Objective of the clause, Functional requirement of the building and Performance criteria that must be satisfied. If the performance criteria of a clause are not satisfied, the building work will not comply with that clause of the Building Code.
- 3.3. Building Code Clause G1 *Personal Hygiene* sets out the requirements for hygiene facilities. In this case, the relevant performance criterion is G1.3.1, which states:
- G1.3.1** *Sanitary fixtures* shall be provided in sufficient number and be appropriate for the people who are intended to use them.
- 3.4. Section 19 of the Act provides for a number of ways to comply with the Building Code and its clauses, including but not limited, to ‘Acceptable Solutions’. Acceptable Solutions are prescriptive construction solutions.
- 3.5. Sections 19 and 22 of the Act require that a building consent authority *must accept* compliance with an Acceptable Solution as establishing compliance with the provisions of the Building Code to which that Acceptable Solution relates. In other words, an Acceptable Solution, if followed, must be accepted as establishing compliance with the performance criteria of the Building Code.

## Acceptable Solution G1/AS1

- 3.6. The Acceptable Solution for Building Code Clause G1 is Acceptable Solution G1/AS1. The relevant sections from G1/AS1 includes the following:

### 1.0 Number and Type of Sanitary Fixtures

...

**1.1.2** WC pans<sup>[5]</sup> and basins are required in any building where people:

a) live or are accommodated, or

b) work

c) ...

**1.1.5** The number of sanitary fixtures for the uses in [Paragraph 1.1.2] is calculated for:

a) WC pans, urinals and basins – use Figure 1, Table 1, Table 3 and Table 4.

- 3.7. Figure 1 of the Acceptable Solution (see Appendix A) sets out the methods to determine the number of sanitary fixtures (or toilets) required in a building relative to the number of building occupants for the building's use. Figure 1 provides two methods to do this:
1. where the actual number of occupants is known, then using Table 1, and
  2. where the number of occupants is not known, using Table 4<sup>6</sup> to calculate the number of occupants per square metre of building floor area, then Table 1.

### Method 1: Occupancy numbers known

- 3.8. The owner has submitted that only 4 persons (two staff and two customers) will occupy the building at any one time. Based on the intended use of the building I accept this as being “the actual number of building occupants” set out in Figure 1.
- 3.9. Figure 1 refers to Table 1 to determine the number of sanitary fixtures to be provided when the number of occupants is known and unisex facilities will be provided. Table 1, under “Staff facilities . . . for any other building use”, requires that one unisex toilet facility is required for between 1 to 5 staff.<sup>7</sup>

<sup>5</sup> G1/AS1 uses the terms ‘water closet pan’ or ‘WC pan’ to refer to a toilet.

<sup>6</sup> Table 4 is adopted from the Acceptable Solutions for Building Code Clauses C1-6 *Protection from Fire*.

<sup>7</sup> Staff and patrons may share the same facilities. Refer G1/AS1 Table 1 Note 5.

## Method 2: Occupancy numbers unknown

- 3.10. The second method, used when the occupancy numbers are not known, is based on the size of the building. The building floor area in this case is 197m<sup>2</sup> of workshop area and 22m<sup>2</sup> of office/reception area; a total area of occupied space<sup>8</sup> of 219m<sup>2</sup>.
- 3.11. Using Table 4 to calculate the occupancy:
- 3.11.1. The occupancy density for “offices, staffrooms and reception areas” is 0.1, this gives an occupancy of three people.
- 3.11.2. The occupancy density for “workrooms, workshops” is 0.2, this gives an occupancy of 39 people.
- 3.12. Together, this gives a maximum occupant density for the building of 42 people. Again, assuming unisex facilities, Table 1, under “Staff facilities . . . for any other building use”, requires three unisex toilets in total (one unisex toilet and one unisex accessible toilet facility) for over 30 staff.
- 3.13. I note that for commercial and industrial buildings, Table 4 provides for the number of people to be specified when seeking a building consent for “Factory space in which layout and normal use determines the number of people using it in working hours”.

## Conclusion

- 3.14. The actual occupancy numbers for the building is known. The Acceptable Solution G1/AS1 provides for a method where the occupancy is known, and it is appropriate for the owner to use the first method from Figure 1 as described above.
- 3.15. I conclude that the provision of one unisex toilet facility, for the automotive workshop as proposed with the occupancy of up to four persons, is sufficient to meet the requirements G1/AS1. As compliance with an Acceptable Solution establishes compliance with the Building Code, I conclude that the provision of one unisex toilet facility, as proposed, complies with Clause G1.3.1.
- 3.16. I note through its correspondence the authority raised the “future” and “potential use” of the building in relation to the number of sanitary facilities being provided. Sections 18 and 49 and set out that the authority is required to consider the building work subject of a building consent and that building work is not required to achieve performance criteria that are additional to, or more restrictive than, the performance criteria prescribed in the Building Code in relation to that building work. There is no requirement to consider the future or potential use of the building. Should the use of the building change, the Act sets out the process for changing the use of a building, the requirements and responsibilities of the owner

---

<sup>8</sup> No occupants are counted for in spaces such as toilets, enclosed corridors or lifts, as it is assumed that the occupation is temporary and by people who would already have been included in the number of occupants of another space.

and the authority, when that assessment is made and whether building work is undertaken.

## **4. Decision**

- 4.1. In accordance with section 188 of the Building Act 2004, I determine that the proposed automotive workshop for the occupancy of up to four persons complies with Building Code clause G1.3.1 with one unisex accessible toilet and shower compartment.

Signed for and on behalf of the Chief Executive of the Ministry of Business, Innovation and Employment on 12 November 2024.

**Peta Hird**

**Lead Determinations Specialist**



# APPENDIX A - G1/AS1 Figure 1

